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August 16, 2018

**BY ECF**

Hon. Edgardo Ramos  
United States District Court  
Southern District of New York  
40 Foley Square  
New York, NY 10007

Re: Burton, et al v. Bussanich, et al. – 18-cv-2039 (ER)

Your Honor:

I am lead counsel for Plaintiffs in the above-captioned matter. An Initial Pretrial Conference is scheduled on August 17, 2018 at 10:45AM. On behalf of all parties, I write to submit this joint report pursuant to Federal Rules of Civil Procedure 16 and 26(f). Counsel have conferred and respectfully submit the attached proposed Civil Case Discovery Plan and Scheduling Order (the “proposed Discovery Plan”).

The proposed Discovery Plan envisions exchanging interrogatories and document demands beginning on December 5, 2018, because I am on paternity leave, and because I have significant responsibilities in other cases pending before this Court throughout October. On May 4, 2018, my wife gave birth to our daughter, five weeks earlier than expected. My wife suffered from severe pre-eclampsia, which required her hospitalization. I hope and expect to be performing childcare duties for my three-month-old daughter, and working only part-time, mostly from home, through the end of September.

Additionally, I am a solo practitioner. In October, I am responsible for opposing two motions for summary judgment, in cases pending before the Hon. P. Kevin Castel and the Hon. Analisa Torres, as well as conducting a jury trial that is expected to last at least one week before the Hon. Kimba M. Wood.

The remaining discovery deadlines in the proposed Discovery Plan, with discovery set to end in mid-2019, take into account that all but one of the Plaintiffs live in Colombia and speak only Spanish; the need to obtain and translate Decedent Franklin Sanchez’s medical and employment related-records from Colombia; and potential challenges in identifying, locating, and deposing witnesses (including inmates and United States Bureau of Prisons employees) who heard and/or interacted with the Decedent in the days leading up to his death.

Additionally, the First Amended Complaint (Dkt. 16) names several “John and Jane Doe” Defendants whose identities Plaintiffs and counsel have sought, but not yet discovered. Plaintiffs’ counsel intend to amend the pleadings to substitute the correct names of those parties under Federal Rule of Civil Procedure 15(c), and for extensions of time under Federal Rule of Civil Procedure 4(m), once their identities are uncovered through discovery. The proposed Discovery Plan therefore provides that Plaintiffs may serve identification interrogatories seeking the correct names and current addresses for service of process of the John/Jane Does named in the First Amended Complaint; and may amend the pleadings to substitute the correct names of any John/Jane Doe Defendant described in the First Amended Complaint that are disclosed in discovery until May 1, 2019.

The parties have discussed the possibility of taking the depositions of the Colombian Plaintiffs by video or telephone with the assistance of a Spanish interpreter.

The parties anticipate that the Government will be in possession of relevant information concerning non-parties which is protected from disclosure by the Privacy Act, 5 U.S.C. § 552a. The parties anticipate presenting for the Court’s consideration a draft order authorizing production of this protected information pursuant to 5 U.S.C. § 552a(b)(11).

We thank the Court for the Court’s attention to this matter.

Respectfully submitted,

/S/

Gideon Orion Oliver

cc: All counsel (by ECF)